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FROM	Kerri Pollard Schray	NUMBER OF PAGES	5
DATE	June 22, 2006	CLIENT NUMBER	0492611-0506
PHONE	(617) 248-4831	OPERATOR	TIME SENT
<b>COMMENTS</b>	See Attached Transmittal of Response to Notice to Comply and Request for Reconsideration, Response to Notice to Comply and Request for Reconsideration and copy of Notice to Comply with Requirements for Patent Applications Containing Nucleotide Sequence and/or Amino Acid Sequence Disclosures.		

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**ATTORNEY'S DOCKET NUMBER: 0492611-0506 (MIT 9926)  
IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

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Applicant: Chen, et al. Examiner: Ashen, J. B.  
Serial Number: 10/674,159 Art Unit: 1635  
Filed: September 29, 2003  
Title: "Influenza Therapeutic"

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Commissioner For Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

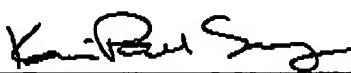
**TRANSMITTAL OF RESPONSE TO NOTICE TO COMPLY AND REQUEST FOR  
RECONSIDERATION**

In response to the Office Communication mailed by the U.S. Patent and Trademark Office on May 23, 2006, enclosed herewith please find the following:

1. Response to Notice to Comply and Request for Reconsideration (2 pages); and
2. Copy of the Notice to Comply with Requirement for Patent Application Containing Nucleotide Sequence and/or Amino Acid Sequence Disclosures.

Additionally, please charge any further fees associated with this filing or apply any credits to our Deposit Account No. 03-1721.

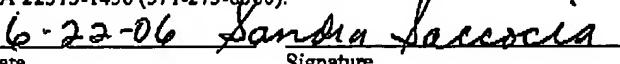
Respectfully submitted,

  
Kerri Pollard Schray, Ph.D.  
Reg. No. 47,066

Choate, Hall & Stewart LLP  
Two International Place  
Boston, MA 02110  
Telephone: (617) 248-5000  
Facsimile: (617) 248-4000

Dated: June 22, 2006

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MAIL STOP: SEQUENCE  
Commissioner For Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

**RESPONSE TO NOTICE TO COMPLY AND REQUEST FOR RECONSIDERATION**

Responsive to the Office Communication mailed May 23, 2006, issuing a Notice to Comply with Requirements for Patent Applications Containing Nucleotide Sequence and/or Amino Acid Sequence Disclosures, Applicants respectfully submit the application is presently in order and does fully comply with the requirements of 37 CFR 1.821-1.825.

The Examiner has indicated that claims 66-68, 94-96, 128-130, and 179-181 are drawn to siRNAs and shRNAs that have duplex portions of nucleotide sequences that are not identified by the required sequence identifiers. Applicants traverse the Examiner's objection to the identified claims and respectfully point out each of the claims in question refers to names of sequences which are identified in the specification. Furthermore, each of the sequences set forth in the specification have been included in the sequence listing as filed and assigned a proper sequence identifier. Applicants respectfully request reconsideration and withdrawal of the Notice to Comply.

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<u>Sandra Saccoccia</u>	
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For example, each of claims 66, 94, 128, and 179 recite: "...wherein the siRNA or shRNA comprises a duplex portion selected from the group consisting of duplex portions of: NP-1496, NP-1496a, PA-2087, PB1-2257, PB1-129, PB2-2240, M-37, or M-598 or a variant of any of the foregoing..." The additional claims in question refer to sequence references recited in each of these claims. Generally, the information for each of named sequences in the application is described at paragraph 316 of the specification as filed. Each of the referenced sequences can be found, for example, at the following locations with the recited sequence, and identifier:

NP-1496: see, e.g., Figure 21A, Table 1A, Table 2, descriptions at paragraph 316, lines 19-22;

NP-1496a: see, e.g., Figure 25A, description at paragraph 481 lines 11-16, paragraphs 489-491;

PA-2087: see, e.g., description at paragraph 297, Table 1A, Table 2, paragraph 313;

PB1-2257: see, e.g., description at paragraph 297, Table 1A, Table 2, paragraph 313;

PB1-129: see, e.g., description at Table 1A, Table 2, paragraph 318;

PB2-2240: see, e.g., description at Table 1A, Table 2, paragraph 313;

M-37: see, e.g., description at Table 2, paragraph 358;

M-598: see, e.g., description at Table 1A, Table 2.

Applicants respectfully submit no additional sequence listing is required as each of the sequences and sequence identifiers have been properly provided in the application as filed and the sequence listing as submitted in connection with this application. Attempts to reach the Examiner regarding clarification of the present requirement have been unsuccessful. In the event any additional submission is required, the Examiner is invited to contact the undersigned for clarification of this requirement.

It is believed the present submission is timely and no fees are required. However, in the event any fees or credits are due, please charge any fees that may be associated with this matter, or credit any overpayments, to our Deposit Account No. 03-1721.

Respectfully submitted,



Kerri Pollard Schray, Ph.D.  
Reg. No. 47,066

CHOATE, HALL & STEWART  
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Boston, Massachusetts 02110  
Tel: (617) 248-5000  
Fax: (617) 248-4000  
Dated: June 22, 2006

**NOTICE TO COMPLY WITH REQUIREMENTS FOR PATENT APPLICATIONS CONTAINING NUCLEOTIDE SEQUENCE AND/OR AMINO ACID SEQUENCE DISCLOSURES**

Applicant must file the items indicated below within the time period set the Office action to which the Notice is attached to avoid abandonment under 35 U.S.C. § 133 (extensions of time may be obtained under the provisions of 37 CFR 1.136(a)).

The nucleotide and/or amino acid sequence disclosure contained in this application does not comply with the requirements for such a disclosure as set forth in 37 C.F.R. 1.821 - 1.825 for the following reason(s):

- 1. This application clearly fails to comply with the requirements of 37 C.F.R. 1.821-1.825. Applicants attention is directed to the final rulemaking notice published at 55 FR 18230 (May 1, 1990), and 1114 OG 29 (May 15, 1990). If the effective filing date is on or after July 1, 1998, see the final rulemaking notice published at 63 FR 29620 (June 1, 1998) and 1211 OG 82 (June 23, 1998).
- 2. This application does not contain, as a separate part of the disclosure on paper copy, a Sequence Listing as required by 37 C.F.R. 1.821(c).
- 3. A copy of the Sequence Listing in computer readable form has not been submitted as required by 37 C.F.R. 1.821(e).
- 4. A copy of the Sequence Listing in computer readable form has been submitted. However, the content of the computer readable form does not comply with the requirements of 37 C.F.R. 1.822 and/or 1.823, as indicated on the attached copy of the marked -up Raw Sequence Listing.
- 5. The computer readable form that has been filed with this application has been found to be damaged and/or unreadable as indicated on the attached CRF Diskette Problem Report. A Substitute computer readable form must be submitted as required by 37 C.F.R. 1.825(d).
- 6. The paper copy of the Sequence Listing is not the same as the computer readable form of the Sequence Listing as required by 37 C.F.R. 1.821(e).
- 7. Other: claims 66-68, 94-96, 128-130 and 179-181 at least, are drawn to siRNAs and shRNAs that have duplex portions of nucleotide sequences that are not identified by the required sequence identifiers.

**Applicant Must Provide:**

- An initial or substitute computer readable form (CRF) copy of the Sequence Listing. (If the unidentified sequences are not provided on the CRF)
- An initial or substitute paper copy of the Sequence Listing, as well as an amendment directing its entry into the specification. (If the unidentified sequences are not provided in the paper copy)
- A statement that the content of the paper and computer readable copies are the same and, where applicable, include no new matter, as required by 37 C.F.R. 1.821(e) or 1.821(f) or 1.821(g) or 1.825(b) or 1.825(d). (If a new paper and/or CRF are required)

For questions regarding compliance to these requirements, please contact:

For Rules Interpretation, call (703) 308-4216

For CRF Submission Help, call (703) 308-4212

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